

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

TINA L. BANGHART-BROWN,

Plaintiff,

v.

CAROLYN W. COLVIN,

Defendant.

Case No. 6:15-cv-1883-SI

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Paul Papak issued Findings and Recommendation in this case on November 21, 2016. ECF 21. Judge Papak recommended that the Commissioner’s final decision denying Plaintiff’s application for disability benefits be affirmed and that a final judgment be prepared.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

Plaintiff timely filed an objection. ECF 23. Plaintiff argues that Judge Papak erred by finding that: (1) the administrative law judge's (ALJ) decision was supported by substantial evidence despite the post-hearing opinion of Dr. Mia Shreiner; (2) the ALJ did not err in discounting the opinions of Dr. Anthony Glassman and several mental health providers; and (3) the ALJ provided clear and convincing reasons for rejecting Plaintiff's symptom testimony. The Court has reviewed *de novo* those portions of Judge Papak's Findings and Recommendation to which Plaintiff has objected, as well as Plaintiff's objections and Defendant's response. The Court agrees with Judge Papak's reasoning regarding the issues to which Plaintiff objects and ADOPTS those portions of the Findings and Recommendation.

For those portions of a magistrate's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate's recommendations for "clear error on the face of the record."

For those portions of Judge Papak's Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Judge Papak's Findings and Recommendation, ECF 21. The Court affirms the Commissioner's final decision denying Plaintiff's application for disability benefits.

IT IS SO ORDERED.

DATED this 4th day of January, 2017.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge